

this percentage assessment rate is prescribed by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in the new calendar quarter. The rate is also published in the Notices section of the FEDERAL REGISTER and indexed under "Fiscal Service/Notices/Funds Rate; Treasury Current Value."

(e) Late payment charges apply to all underpayments and payments received after the date due. These charges include production, minimum, or advance royalties; assessments for liquidated damages; or any other payments, fees, or assessments that an operator/lessee is required to pay by a specified date. The failure to pay past due payments, including late payment charges, will result in the initiation of other enforcement proceedings.

(f) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in § 1218.42.

[47 FR 33195, July 30, 1982; 47 FR 53366, Nov. 26, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and further redesignated at 52 FR 23815, June 25, 1987, as amended at 57 FR 41868, Sept. 14, 1992; 57 FR 62207, Dec. 30, 1992; 59 FR 14559, Mar. 29, 1994; 65 FR 55189, Sept. 13, 2000; 67 FR 19112, Apr. 18, 2002]

**§ 1218.203 Recoupment of overpayments on Indian mineral leases.**

(a) Whenever an overpayment is made under an Indian solid mineral lease, a payor may recoup the overpayment through a recoupment on Form MMS-4430 against the current month's royalties or other revenues owed on the same lease. However, for any month a payor may not recoup more than 50 percent of the royalties or other revenues owed in that month under an individual allotted lease or more than 100 percent of the royalties or other revenues owed in that month under a tribal lease.

(b) With written permission authorized by tribal statute or resolution, a

payor may recoup an overpayment against royalties or other revenues owed in that month under other leases for which that tribe is the lessor. A copy of the tribe's written permission must be furnished to ONRR for reporting recoupments. Call 1-888-201-6416 for instructions. Recouping overpayments on one allotted lease from royalties paid to another allotted lease is specifically prohibited.

(c) Overpayments subject to recoupment under this section include all payments made in excess of the required payment for royalty, rental, bonus, or other amounts owed as specified by statute, regulation, order, or terms of an Indian mineral lease.

(d) The ONRR Director or his/her designee may order any payor to not recoup any amount for such reasonable period of time as may be necessary for ONRR to review the nature and amount of any claimed overpayment.

[60 FR 3087, Jan. 13, 1995, as amended at 66 FR 45773, Aug. 30, 2001; 66 FR 50827, Oct. 5, 2001]

**Subpart F—Geothermal Resources**

**§ 1218.300 Payment of royalties, rentals, and deferred bonuses.**

As specified under the provisions of the lease, the lessee shall submit all rental and deferred bonus payments when due and shall pay in value all royalties in the amount determined by ONRR to be due.

[52 FR 23815, June 25, 1987]

**§ 1218.301 Method of payment.**

The payor shall tender all payments in accordance with § 1218.51.

[52 FR 23815, June 25, 1987]

**§ 1218.302 Late payment or underpayment charges.**

(a) The failure to make timely or proper payment of any monies due pursuant to leases and contracts subject to these regulations will result in the collection by the ONRR of the full amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with the

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instructions provided by the ONRR to the payor.

(b) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the ONRR addresses specified in §1218.51. Payments received at the specified ONRR addresses after 4 p.m. Mountain Time are considered received the following business day.

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in the new calendar quarter. The rate is also published in the Notices section of the FEDERAL REGISTER and indexed under "Fiscal Service/Notices/Funds Rate; Treasury Current Value."

(e) Late payment charges apply to all underpayments and payments received after the date due. These charges include production, minimum, and compensatory royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/payor/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due payments, including late payment charges, will result in the initiation of other enforcement proceedings.

(f) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine a net underpayment on

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which interest is due pursuant to conditions specified in §1218.42.

[47 FR 22528, May 25, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and further redesignated at 51 FR 15767, Apr. 28, 1986 and 52 FR 23815, June 25, 1987, as amended at 57 FR 41868, Sept. 14, 1992; 57 FR 62207, Dec. 30, 1992; 59 FR 14559, Mar. 29, 1994; 65 FR 55189, Sept. 13, 2000; 67 FR 19112, Apr. 18, 2002]

### § 1218.303 May I credit rental towards royalty?

(a)(1) For Class II leases as defined in §1206.351 of this chapter, and for Class III leases as defined in that section that elect under 43 CFR 3200.7(a)(2) to be subject to all of the BLM regulations promulgated for leases issued after August 8, 2005 you may credit the annual rental that you paid before the first day of the year for which the annual rental is owed against the royalty due for the lease year for which the rental was paid. You may not apply any annual rental paid in excess of the royalty due for a particular lease year as a credit against any royalty due in any subsequent lease year.

(2) For purposes of this section, the term "royalty" includes any advanced royalty payable under 30 U.S.C. 1004(f) for a cessation of production.

(b) If portions of your lease are located both within and outside of a participating area, you may credit against royalty under paragraph (a) only that percentage of the rental you paid that corresponds to the percentage of the lease within the participating area on a per-acre basis.

[72 FR 24468, May 2, 2007]

### § 1218.304 May I credit rental towards direct use fees?

You may not credit annual rental toward direct use fees you are required to pay that year under §1206.356 of this chapter. You must pay the direct use fees in addition to the annual rental due.

[72 FR 24468, May 2, 2007]

### § 1218.305 How do I pay advanced royalties I owe under BLM regulations?

If you pay advanced royalties under 43 CFR 3212.15(a)(1) to retain your lease: